

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DERRYL WATSON,

Plaintiff,

No. 16-13770

v.

District Judge Linda V. Parker
Magistrate Judge R. Steven Whalen

CHARLES JAMSEN, ET AL.,

Defendants.

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ORDER

On October 21, 2016, Plaintiff, a Michigan Department of Corrections inmate currently housed at the G. Robert Cotton Correctional Facility (“JCF”) in Jackson, Michigan filed suit pursuant to 42 U.S.C. § 1983. Plaintiff alleges that Defendants were deliberately indifferent to his medical condition before and after April, 2016 reconstructive foot surgery. He alleges that complications arising after the foot surgery due to Defendants’ deliberate indifference necessitated a second surgery.

Currently before the Court is Defendants Charles Jansen, M.D. and Mary Boayue, P.A.’s motion to compel Plaintiff’s medical records, filed November 16, 2017 [Docket #45]. Defendants seek “a signed authorization for the release of Plaintiff’s medical records from the Michigan Department of Corrections between January 19, 2017 and the present” for the evaluation of Plaintiff’s current condition relative to the Complaint’s allegations of Eighth

Amendment violations. *Docket #45*, Pg ID 310. Defendants note that Plaintiff objected to the request for the medical release for the current records on the basis that he did not allege constitutional violations by Defendants occurring after May 7, 2016. *Exhibit B, Docket #45-2*. Plaintiff also objected to the discovery request on the basis that his “dental and mental health records [are] not germane to this case and would be outside the scope of proper discovery.” *Id.* However, Plaintiff has not responded to the present motion.

The proposed medical release states as follows:

By signing this form I am attesting to the fact that the records I am requesting be released, and may include alcohol, substance abuse, mental health status, and serious infections and communicable diseases” *Exhibit A, Docket #45-1*,

Medical records post-dating May 7, 2016 are relevant and discoverable under Fed.R.Civ.P. 26(b) because they are likely to reflect the impact, treatment, and progress of medical treatment rendered *before* that date. As noted in the release, to the extent that the requested *medical* forms contain information related to mental health status, substance abuse, etc., they are discoverable. However, because Plaintiff is not claiming emotional damages, the requested information will be limited to records regarding medical treatment, and will not include separate psychiatric or mental health treatment or counseling.

In addition, the discovery material provided herein will not be disclosed to any individual or entity not involved in the prosecution or defense of this lawsuit. If any such material is included as part of any motion or other filing with this Court, it will

be filed under seal, and will be unsealed only on order of the Court. Likewise, any motion or other filing that discusses the content of Plaintiff's medical records will be filed under seal, although a redacted version may be publically filed.

Defendants' motion [Doc. #45] is therefore GRANTED under the terms set forth above. Plaintiff will sign the release for his medical records no later than 14 days from the date of this Order.

IT IS SO ORDERED

Dated: December 6, 2017

s/R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

I hereby certify on December 6, 2017 that I electronically filed the foregoing paper with the Clerk of the Court sending notification of such filing to all counsel registered electronically. I hereby certify that a copy of this paper was mailed to non-registered ECF participants on December 6, 2017.

s/Carolyn M. Ciesla
Case Manager for the
Honorable R. Steven Whalen